IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2023

CORAM

**THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.P.No.30950 of 2023
and
W.M.P.No.30578 of 2023

S.Prakash Chand ... Petitioner

versus

1.Inspector General of Registration,
100, Santhome High Rd, Mullima Nagar,
Mandavelipakkam,
Raja Annamalai Puram,
Chennai – 600 028.

2.Deputy General of Registration,
Registration District of Chennai South,
Integrated Building for Offices of the Commercial
Taxes and Registration Department,
Fanepet, Nandanam,
Chennai – 600 035.

3.The District Registrar (Administration),
District Registration Office,
Tambaram Registration District,
No.47/8, Venkatesan Street,
West Tambaram, Chennai – 600 045.

4.Saravanan .....Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari calling for the records of the proceedings of the third respondent in No.728/E3/2023 dated 27.09.2023 and quash the same.

For Petitioner : Mr.K.Sivasubramanian

For Respondents : Mr.V.Veluchamy
Additional Government Pleader
for R1 to R3

**<u>O R D E R</u>**

Mr.V.Veluchamy, learned Additional Government Pleader takes notice for respondents 1 to 3. Since no adverse order is passed as against the fourth respondent, notice to the fourth respondent is dispensed with.

2. As against the order in No.728/E3/2023, dated 27.09.2023 of the third respondent, the petitioner has filed this writ petition.

3. The grievance of the petitioner is that he is the absolute owner of the property in S.Nos.87/4A, 87/4B, 86/1, 86/2 and as per Patta

Nos.87/4B1, 87/4B2 and 86/1B, Ponmar Village, Chengalpattu Taluk, admeasuring total extent of 1 Acre 37 cents. The petitioner is the subsequent purchaser in respect of the subject properties. The fourth respondent filed a complaint before the third respondent under Section 77-A of the Registration Act, 1908 [herein after referred to as 'the Act'] to cancel the document in Doc.No.2430 of 2005 standing in the name of the petitioner. Based on the complaint, notice has been issued for the purpose of conducting an enquiry. After enquiry, the third respondent passed the impugned order under Section 77-A of the Act. Challenging the same, the petitioner is before this Court.

4. The learned counsel for the petitioner mainly contended that the third respondent lacks jurisdiction to pass the impugned order, since the document was registered in the year 2005 itself. He further submitted that already this Court in W.P.No.19239 of 2023, by order dated 25.07.2023 (T.S.T.Kaznavi Vs. District Registrar and 2 others) expressed a view that Section 77-A of the Act cannot have any retrospective effect.

5. Now, the said decision has been referred to a Larger Bench, which is yet to be constituted, to decide the matter regarding Section 77-A of the amendment Act and whether it gives retrospective effect or prospective effect. Subsequent to that, the first respondent issued a circular dated 29.09.2023 to the Registrar and the Sub-Registrar of the Registration Department that while registering the document, the question regarding Section 77-A of the Act shall not be entertained. Despite that, the third respondent has issued summons to the petitioner. The third respondent has no authority to issue summons under Section 77-A of the Act, since the issue is yet to be decided by the Larger Bench of this Court. He further submitted that even the petitioner has not appeared before the third respondent and made his submissions regarding the jurisdiction. Challenging the said notice, the petitioner has to only appear before the enquiry officer/third respondent or otherwise, he can make submissions regarding the issue before the Larger Bench. Therefore, as against the circular, dated 29.09.2023 issued by the first respondent to stop the proceedings under Section 77-A of the Act, the petitioner is having an

appellate remedy. If at all the petitioner has got any grievance, he shall approach the authority concerned under Section 77-B of the said Act.

6. Under these circumstances, this Court is of the opinion that this writ petition is not maintainable, accordingly, this writ petition is dismissed in-limine. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

**31.10.2023**

Index: Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
*ms*

To

1.The Inspector General of Registration,
100, Santhome High Rd, Mullima Nagar,
Mandavelipakkam,
Raja Annamalai Puram,
Chennai – 600 028.

2.The Deputy General of Registration,
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**P.VELMURUGAN, J.**

ms

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